CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	✓ Discourt.	☐ U.S.
Katherine White		Squad #5	202008309		Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Pı	recinct:	18 Mo. SOL	EO SOL
Monday, 12/07/2020 1:03 AM		In front of 915 Sutter	Avenue		75	6/7/2022	6/7/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	d:]	Date/Time	Received at CC	RB
Mon, 12/07/2020 2:00 AM		IAB	Phone]	Mon, 12/2	1/2020 11:11 Al	М
Complainant/Victim	Type	Home Addr	ress				
Witness(es)		Home Addr	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. SGT Sean Gaynor	03981	951766	PSA 2				
2. PO Griffin Rosen	31291	954298	PSA 2				
3. POM Nicholas Salvadori	21881	959963	PSA 2				
4. POM Jason Kwan	10201	961874	PSA 2				
Officer(s)	Allegation	on			Inve	estigator Recor	nmendation
A.SGT Sean Gaynor	Abuse: S § 87(2)(b)	dergeant Sean Gaynor sand an individ	topped the vehicle in ual were occupants.		ch		
B.SGT Sean Gaynor	Abuse: S	ergeant Sean Gaynor fi	-				
C.SGT Sean Gaynor		ergeant Sean Gaynor s					
D.SGT Sean Gaynor	Abuse: S § 87(2)(b)	dergeant Sean Gaynor search and an individ	earched the vehicle and were occupants.		ch		
E.SGT Sean Gaynor		ergeant Sean Gaynor in use of a recording dev		o)			
F.PO Griffin Rosen	Abuse: P	Police Officer Griffin Rewith a busines		de			
G.POM Jason Kwan		Police Officer Jason Kw with a business card.	an failed to provide	§ 87(2)(b	0)		
H.POM Nicholas Salvadori	Abuse: P § 87(2)(b)	Police Officer Nicholas with a busines		provide	e		
I.POM Jason Kwan	Abuse: P	Police Officer Jason Kw	an refused to provio	de his			
J.POM Jason Kwan		Police Officer Jason Kw Imber to § 87(2)(b)	van refused to provid	de his			
K.POM Nicholas Salvadori		Police Officer Nicholas to § 87(2)(b)	Salvadori refused to	provi	ide		
L.POM Nicholas Salvadori		Police Officer Nicholas I number to § 87(2)(b)	Salvadori refused to	provi	ide		
M.SGT Sean Gaynor	Discourte § 87(2)(b)	esy: Sergeant Sean Gay	vnor spoke discourte	ously	to		

Officer(s)	Allegation	Investigator Recommendation
N.POM Jason Kwan	Discourtesy: Police Officer Jason Kwan spoke discourteously to §87(2)(b)	
O.PO Griffin Rosen	Discourtesy: Police Officer Griffin Rosen spoke discourteously to §87(2)(b)	
P.POM Nicholas Salvadori	Discourtesy: Police Officer Nicholas Salvadori spoke discourteously to §87(2)(b)	
Q.SGT Sean Gaynor	Off. Language: Sergeant Sean Gaynor made remarks to based upon the gender of \$87(2)(b)	
R.SGT Sean Gaynor	Discourtesy: Sergeant Sean Gaynor spoke discourteously to \$87(2)(b)	
S.SGT Sean Gaynor	Force: Sergeant Sean Gaynor hit §87(2)(b) against a vehicle.	
T.SGT Sean Gaynor	Abuse: Sergeant Sean Gaynor seized \$87(2)(b) s property.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On December 7, 2020, [87(2)(b)] filed this complaint by phone with IAB, generating original log #20-28309 (BR01). The CCRB received the complaint on December 21, 2020.

On December 7, 2020, at approximately 1:03 a.m., in front of 915 Sutter Avenue in Brooklyn,
Sergeant Sean Gaynor and Police Officers Griffin Rosen, Nicholas Salvadori, and Jason Kwan, all
from PSA 2, stopped \$87(2)(b) s vehicle as he and his girlfriend, identified only as \$87(2)(b)
were sitting in a no-parking zone (Allegation A: Abuse of Authority, \$87(2)(9)). Sgt. Gaynor
frisked and allegedly searched §87(2)(b) (Allegations B–C: Abuse of Authority, §87(2)(9)).
Sgt. Gaynor supervised a search of \$87(2)(b) s vehicle (Allegation D: Abuse of Authority,
). Sgt. Gaynor allegedly interfered with §87(2)(b) s ability to record by removing his
cellphone from his hand (Allegation E: Abuse of Authority, \$87(2)(9)). PO Rosen, PO Kwan,
and PO Salvadori allegedly refused to provide business cards to \$87(2)(b) (Allegations F-G:
Abuse of Authority, \$87(2)(9); Allegation H: Abuse of Authority, \$87(2)(9)
). PO Kwan and PO Salvadori refused to provide their names and shield numbers to
(Allegations I-J, \$87(2)(9); Allegations K-L: Abuse of Authority, \$87(2)(9)
). Sgt. Gaynor twice told §87(2)(b) to "shut the fuck up" (Allegation M:
Discourtesy, \$87(2)(9)). PO Rosen, PO Salvadori, and PO Kwan allegedly told \$87(2)(6) to
"shut the fuck up" (Allegations N-O: Discourtesy, \$87(2)(9); Allegation P: Discourtesy,
s 87(2)(g)). Sgt. Gaynor allegedly called \$87(2)(b) a "pussy"
(Allegation Q: Offensive Language, \$87(2)(9); Allegation R: Discourtesy,
). Sgt. Gaynor allegedly slammed \$87(2)(b) s car door into his body several
times (Allegation S: Force, \$87(2)(9)). Sgt. Gaynor allegedly seized \$87(2)(9) s car keys and
ID (Allegation T: Abuse of Authority , \$87(2)(9)). The officers did not arrest or summons
or § 87(2)(b) § 87(4-b), § 87(2)(g)

The investigation obtained BWC footage (BR02-05, summarized at BR06-09). The officers deactivated their BWCs prior to the completion of the incident. However, the investigation also obtained cellphone footage from [887(2)(6)] (BR23-24, summarized at BR25), which captured the portion of the incident after the officers deactivated their BWCs. The investigation also obtained stationhouse surveillance footage, which was not relevant to this incident (BR10-15, summarized at BR16).

Sgt. Gaynor has since been reassigned to the Harbor Unit, and PO Kwan had been reassigned to Gun Violence Suppression Division Zone 1. PO Salvadori is no longer a member of the NYPD.

On September 9, 2021, this case was reassigned from Inv. Conor O'Shea to the undersigned after Inv. O'Shea's departure from the agency. This investigation was delayed by the COVID-19 pandemic.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Sean Gaynor stopped the vehicle in which

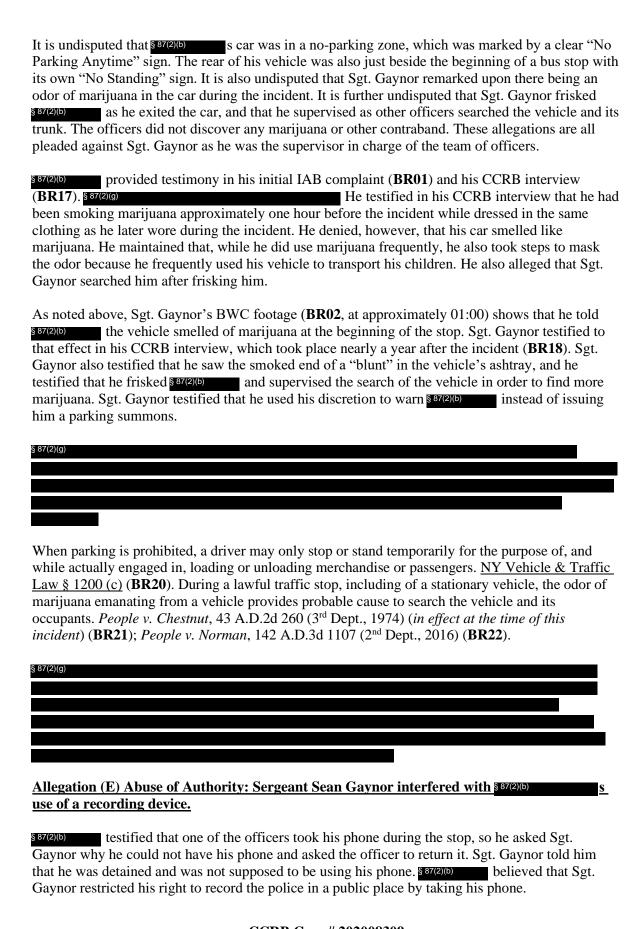
and an individual were occupants.

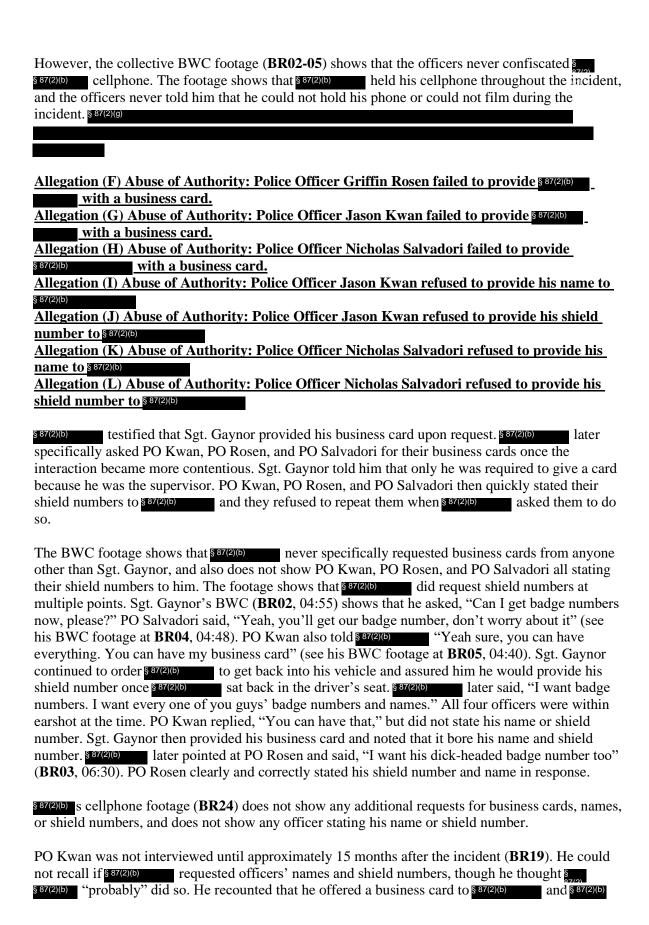
Allegation (B) Abuse of Authority: Sergeant Sean Gaynor frisked

Allegation (C) Abuse of Authority: Sergeant Sean Gaynor searched

Allegation (D) Abuse of Authority: Sergeant Sean Gaynor searched the vehicle in which

and an individual were occupants.





when \$87(2)(b) became irate. He could not recall if \$87(2)(b) took the business card. He could not recall if he ever verbally provided his name and shield number to \$87(2)(b) Reviewing the BWC footage did not refresh PO Kwan's recollection regarding whether he ever stated his name or shield number to \$87(2)(b)
The investigation was not able to interview PO Salvadori before he left the NYPD.
§ 87(2)(g)
<u>Patrol Guide Procedure 203-09</u> (BR31) requires that officers courteously and clearly state their names and shield numbers upon request.
As Sgt. Gaynor was supervising the incident and provided his business card to strong and as video footage showed that strong never specifically requested business cards from PO Rosen, PO Kwan, or PO Salvadori, strong No. 100 No. 1
The footage showed that \$87(2)(b) requested names and shield numbers from PO Rosen, PO Kwan, and PO Salvadori. PO Rosen provided his information, but PO Kwan and PO Salvadori failed to do so. \$87(2)(g)
Allegation (M) Discourtesy: Sergeant Sean Gaynor spoke discourteously to \$87(2)(b) Allegation (N) Discourtesy: Police Officer Jason Kwan spoke discourteously to \$87(2)(b)
Allegation (O) Discourtesy: Police Officer Griffin Rosen spoke discourteously to 887(2)(b)
Allegation (P) Discourtesy: Police Officer Nicholas Salvadori spoke discourteously to S87(2)(b)
Allegation (Q) Offensive Language: Sergeant Sean Gaynor made remarks to safe(2)(b) based upon the gender of safe(2)(b) Allegation (R) Discourtesy: Sergeant Sean Gaynor spoke discourteously to safe(2)(b)
testified that both he and the officers began using profane language at the conclusion of the incident. He told them they looked like "dickheads" for searching his car unlawfully. PO Salvadori, PO Kwan, and PO Rosen all told [87(2)(5)] to "shut the fuck up." Sgt. Gaynor said, "Alright, we'll be dickheads, we'll be dickheads." [87(2)(5)] told Sgt. Gaynor, "Get the fuck out of here." Sgt. Gaynor asked [87(2)(5)] what he wanted to do, [87(2)(5)] asked him the same, and [87(2)(5)] then told Sgt. Gaynor he was "not going to do shit." Sgt. Gaynor replied, "Alright, whatever, pussy." [87(2)(5)] called Sgt. Gaynor a "pussy" in response. [87(2)(5)] and Sgt. Gaynor continued arguing back and forth. [87(2)(5)] told Sgt. Gaynor to shut up. In response, Sgt. Gaynor said, "Shut the fuck up." [87(2)(5)] continued calling the officers "dickheads," and Sgt. Gaynor became angrier and yelled, "I can't move because your fucking door is in the way." [87(2)(5)] told the officers to leave again, and Sgt. Gaynor asked, "You want me to fucking go? You want me to go?" Sgt. Gaynor then began trying to close [87(2)(5)] s driver's door (see Allegation S below), and told him, "Get in your car and sit the fuck down."
only knew § 87(2)(b) s first name and phone number. The investigation eventually reached

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a woman at that number who said she had recently acquired it and knew nothing of this incident. Absent additional information, the investigation could not identify or locate [887(2)(b)]

The video footage confirms that §87(2)(b) and the officers got into a verbal altercation at the
conclusion of the incident. The officers had stopped their vehicle directly beside the driver's side of
s vehicle, and he remained standing in the area beside his open driver's door. PO
Salvadori's BWC footage (BR04 , at 06:40) shows that PO Rosen returned §87(2)(b) s ID and
told him to have a good night. §87(2)(b) replied, "You too. Get the fuck up out of here and go
bother somebody else." PO Rosen walked away, and said, turned to Sgt. Gaynor and said,
"What you still here for? I can stay right here." Sgt. Gaynor walked within arm's length of
and replied, "How am I going to get in my car?" PO Salvadori told \$87(2)(b) "We need"
you to move your car so we can get to our door." [887(2)(b) replied, "Don't face up on me, nigga,
I'm not scared of you." Sgt. Gaynor said, "Shut the fuck up," and [87(2)(5)] replied, "So what
you gonna do? So do something!" Sgt. Gaynor told him to "shut the fuck up" again. §87(2)(b)
yelled, "Do something!" Sgt. Gaynor then said something inaudible, and
replied, "I can be a pussy." None of the videos clearly capture Sgt. Gaynor's inaudible
statement, including §87(2)(b) s cellphone footage (BR24).

Sgt. Gaynor testified that he could not recall if he, or any other officer, told \$87(2)(6) to "shut the fuck up" or used the word "pussy," and viewing the video footage did not refresh his recollection.

Based upon the video footage, it is apparent that PO Rosen, PO Kwan, and PO Salvadori did not all tell \$87(2)(b) to "shut the fuck up" as he alleged. The footages does not capture any of them using profane or foul language with him. The footage also contradicts a saccount of Sgt. Gaynor using the word "dickheads," referring to his "fucking door," telling him to "sit the fuck down," or asking, "You want me to fucking go?" The footage does show that Sgt. Gaynor twice told him to "shut the fuck up." The footage is inconclusive as to whether Sgt. Gaynor ever used the word "pussy." \$87(2)(b) did appear to use it in response to something Sgt. Gaynor said, but also alleged numerous uses of profane language which were contradicted by video footage, and \$87(2)(b) also alleged that Sgt. Gaynor used the word "dickheads" when \$87(2)(b) was the only person to use that word.

The NYPD is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. Officers must "maintain a higher standard of integrity than is generally expected of others." Patrol Guide Procedure 200-02 (BR26). The NYPD's disciplinary decisions "have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct. NYPD Disciplinary Case No. 76927/04 (2004) (BR27).

Sgt. Gaynor did not use most of the profane	e language alleged by § 87(2)(b)	but he did twice tell
him to "shut the fuck up." \$87(2)(9)		
The officers had affectively as	ompleted their police business by	that point and manaly
needed to leave the scene. § 87(2)(9)	ompleted their police business by	that point and merery
needed to leave the seene.		

The video footage showed that PO Rosen, PO Kwan, and PO Salvadori did not use the alleged profane language. § 87(2)(9)
profune language.
§ 87(2)(g)
Allegation (S) Force: Sergeant Sean Gaynor hit 887(2)(6) against a vehicle.
alleged that, when Sgt. Gaynor began saying, "You want me to fucking go, you want me to go," Sgt. Gaynor tried to close the driver's door of solution of solution solution was still standing in the area beside the open door at the time. Sgt. Gaynor struck the door against solution approximately five or six times, and solution described the force with which Sgt. Gaynor struck him as "mad hard." solution held his ground and braced against the impact of the door.
Sgt. Gaynor does not strike the door against \$\frac{\$\frac{97(2)(0)}{2}}{2}\$ in any of the BWC footage, but all the BWC clips end midway through his confrontation with \$\frac{87(2)(0)}{2}\$ s cellphone footage (BR24, 00:04) captures Sgt. Gaynor say, "Get out of my way," to \$\frac{87(2)(0)}{2}\$ then rotate his torso towards \$\frac{87(2)(0)}{2}\$ takes a step backwards toward his vehicle, as if he is being moved or pushed backwards, and says, "Yo, get off of me! Stop pushing my car! Stop pushing!" Sgt. Gaynor says, "You wanna get out of the way?" \$\frac{87(2)(0)}{2}\$ says, "No, you the one moving my fucking car!" Sgt. Gaynor steps past \$\frac{87(2)(0)}{2}\$ and enters the front passenger seat of the officers' vehicle. Sgt. Gaynor does not repeatedly strike \$\frac{87(2)(0)}{2}\$ hard with the vehicle door.
Sgt. Gaynor recounted that was agitated and standing in a position which made it difficult for him to enter his own vehicle. He did not recall if he used any force against if he pushed him, or if he repeatedly struck him hard with the vehicle's door.
Based upon the video footage, the investigation determined that Sgt. Gaynor did not use force against §87(2)(b) in the manner alleged. §87(2)(9)
Allegation (T) Abuse of Authority: Sergeant Sean Gaynor seized 887(2)(6) s property.
alleged that Sgt. Gaynor took his car keys and his ID when the officers left the scene. 887(2)(b) did not realize until he got back in his car and tried to start it. 87(2)(b) eventually called 911 and the officers returned to the location and gave his keys and ID to his cousin, as 87(2)(b) did not want to interact with the officers. 887(2)(b) believed that Sgt. Gaynor deliberately took his keys and ID.
PO Rosen's BWC video (BR03) shows that he obtained \$87(2)(b) s keys and used them to open the vehicle's glove compartment. At 06:40, PO Rosen directly returned \$87(2)(b) s ID to him at the conclusion of the incident, shortly before \$87(2)(b) s confrontation with Sgt. Gaynor. It is unclear if PO Rosen still had the keys at that point, but he did not appear to give them to another officer in the footage.
Sgt. Gaynor testified that PO Rosen accidentally left the location with \$87(2)(0) s keys and forgot he had them, and PO Kwan similarly testified that it was accidental.

§ 87(2)(g)
The video footage disproves \$87(2)(6) s claim that Sgt. Gaynor left with his ID, \$87(2)(9)
the officers never formally "seized" \$87(2)(b) s property, and they returned it to him within a relatively brief period of time. \$87(2)(9)
§ 87(4-b), § 87(2)(g)
Civilian and Officer CCRB Histories
§ 87(2)(b)
Sgt. Gaynor has been a member of the NYPD for ten years and has been a subject in three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(9)
PO Kwan has been a member of the NYPD for five years and has been a subject in six CCRB
complaints and eight allegations, none of which were substantiated. §87(2)(9)
PO Rosen has been a member of the NYPD for nine years and has been a subject in three prior
CCRB complaints and four allegations, none of which were substantiated. He is also a subject in two complaints and six allegations filed after this complaint, none of which were substantiated and
four of which remain under investigation. § 87(2)(9)
PO Salvadori is no longer a member of the NYPD. He had been a subject in three CCRB complaints and three allegations, none of which were substantiated.

Mediation, Civil, and Criminal Histories

- \$87(2)(b) declined to mediate this complaint.
 As of March 11, 2022, the New York City Office of the Comptroller has no re-
- As of March 11, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**BR29**).

§ 87(2)(b)			
Squad No.:	5		
Investigator: _	KW Signature	INV Katherine White Print Title & Name	04/19/2022 Date
Squad Leader: _	Daniel Giansante Signature	IM Daniel Giansante Print Title & Name	April 19, 2022 Date
Reviewer:	Signature	Print Title & Name	 Date